

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Stephanie Maria Brown,

Plaintiff,

vs.

Andrew Saul, Commissioner
of Social Security,

Defendant.

Civil Action No. 2:19-1204-RMG

ORDER

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's application for Disability Insurance Benefits ("DIB"). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation ("R & R") on May 19, 2020, recommending that the decision of the Commissioner be reversed and remanded to the agency because the Administrative Law Judge ("ALJ") failed to properly evaluate Plaintiff's subjective statements and this failure negatively impacted the ALJ's consideration of the third party function report and the consultant examiner's opinion. (Dkt. No. 14 at 5-13). This includes the dubious and unsupported finding of the ALJ that Plaintiff has a "fairly active lifestyle." (*Id.* At 10). The Commissioner has advised the Court that he does not intend to file objections to the R & R. (Dkt. No. 15).

The Court has reviewed the R & R and the record evidence and finds that the Magistrate Judge has ably addressed the factual and legal issues in this matter. Therefore, the Court

ADOPTS the Report and Recommendation as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order. Since this application for disability benefits has been pending now for over five years, the Commissioner is directed to schedule an administrative hearing in this matter, if one is required, within 120 days of this order.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
United States District Judge

Charleston, South Carolina
May 29, 2020